

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BANK OF AMERICA, N.A.,)	
)	
Plaintiff,)	No. 4:14-CV-809-JAR
)	
v.)	
)	
MAGRUDER CONSTRUCTION CO., INC.,)	
)	
Defendant.)	

DEFENDANT’S MOTION TO DISMISS VERIFIED COMPLAINT

COMES NOW Defendant Magruder Construction Co., Inc. (“Defendant” or “Magruder”), by its undersigned counsel, and hereby moves for dismissal of the Verified Complaint herein, on the following grounds:

1. This suit is based upon a Loan Agreement between the Plaintiff Bank and Magruder. A copy of the Loan Agreement is attached to the Verified Complaint as Exhibit A (Doc. No. 1-1).

2. Section 12.4 of the Loan Agreement provides a Dispute Resolution Provision described as a “material inducement for the parties entering into this agreement.”

3. Section 12.4(b) provides that “[a]t the request of any party to this agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code).

4. Magruder requests that the claims herein be resolved by binding arbitration and therefore moves for the dismissal of this action.

WHEREFORE, Defendant respectfully requests that this Court grant its Motion to Dismiss, that this matter be dismissed or, in the alternative, stayed pending arbitration, and for such other and further relief as this Court deems just and proper under the circumstances.

Respectfully submitted,

ROSENBLUM GOLDENHERSH

BY: /s/ Theresa A. Phelps
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon the following via operation of the Court's electronic filing system on this 28th day of May, 2014:

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